



**OFFICE OF THE GOVERNOR
INDIANAPOLIS, INDIANA 46204-2797**

**JOSEPH E. KERNAN
GOVERNOR**

June 23, 2004

Administrator Michael Leavitt
United States Environmental Protection Agency
1101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: Nonattainment Areas for the Fine Particle Standard

Dear Administrator Leavitt:

I write today to request your assistance in a matter important to Indiana.

The United States Environmental Protection Agency (USEPA) is in the process of preparing proposed designations of nonattainment under the Clean Air Act for the fine particle air quality standard. It is our understanding that EPA plans to send letters to states to start a formal 120 day consultation process on or about June 28th. Indiana and other states made initial recommendations to the USEPA in February 2004.

As a former governor, you are aware of the significance of nonattainment designations on local communities. The "stigma" associated with the tougher air permit requirements has proven to complicate or block many economic development projects from considering nonattainment areas. Once on a nonattainment list, the track record is not good for timely changes back to attainment, even after the air quality readings demonstrate that the air quality goals have been achieved.

As a result, nonattainment designations should be limited to areas where measured air quality exceeds the standard or where nonattainment designation is an essential tool to address specific contributions to local nonattainment. As we all know, there are significant regional contributions to most areas that do not meet the current ozone and fine particle federal air quality standard. States and the USEPA have implemented and are pursuing additional regional control measures to address this general contribution. The state and federal regional programs do not require that a facility be located within an area designated to be nonattainment in order to be impacted by the program.

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Based on information that has been provided by your staff to mine, the USEPA is on a track to base its proposed PM2.5 nonattainment designations on a very flawed analysis scheme. The analysis results in nonattainment status for many counties where air quality actually meets the health standard and where the designation is not necessary to address sources that may be contributing to regional air pollution levels. The end result would be the designation of a number of generally rural or suburban areas as nonattainment and an unnecessary negative impact on economic development efforts in Indiana.

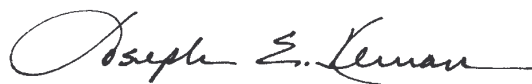
Key concerns about the analyses include:

- counties in Indiana that contain coal-fired power plants, such as Spencer, Pike, Gibson, Dearborn, Jefferson, and Warrick may be designated as nonattainment solely based on the presence of a facility that will clearly be affected by Indiana's existing regional NOx program and EPA's proposed sulfur and nitrogen interstate air quality rule. A nonattainment designation for these counties serves no useful purpose beyond creating a bias against a low-cost source of energy prevalent in the Midwest;
- the USEPA's approach is very limited scientifically by not including air quality modeling or available information on meteorology in making determinations;
- the USEPA's approach is not considering transportation conformity and the difficulties that will result from inclusion of non-urban counties to address an urban area air quality reading; and
- the USEPA's approach is inconsistent with its guidance for designations issued in April 2003 that links the ozone nonattainment designations to the fine particle nonattainment designations.

Please understand Indiana is very committed to moving forward to address fine particle pollution in concert with other states and the federal government. I urge you to consider carefully the basis for, and the implications of, using the currently proposed approach for this critical determination. Designation as a nonattainment area is an extremely serious and significant matter, which can impact economic development for years into the future. The USEPA should make these decisions strategically, taking into account the fact that regional control strategies will undoubtedly be a primary element of states' clean air plans.

I would be pleased to discuss this important issue further with you.

Sincerely,

A handwritten signature in dark ink, appearing to read "Joseph E. Kernan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Joseph E. Kernan

cc: E. Bayh
R. Lugar
P. Visclosky
C. Chocola
M. Souder
S. Buyer
D. Burton
M. Pence
J. Carson
J. Hostettler
B. Hill